

**REPLACEMENT: EXECUTIVE OFFICER SUMMARY REPORT**  
October 13, 2004

ITEM: 7

SUBJECT: Issuance of Waste Discharge Requirements: Port of San Diego, Campbell Shipyard Bay Sediment Cap for Closure and Post-Closure Maintenance, San Diego Bay, (tentative Order No. R9-2004-0295. (*Brian McDaniel and Dat Quach*).

PURPOSE: The California Regional Water Quality Control Board, San Diego Region (Regional Board) will consider the adoption of Waste Discharge Requirements for the Campbell Shipyard Bay Sediment Cap for Closure and Post-closure Maintenance project.

PUBLIC NOTICE: Tentative Order No. R9-2004-0295 was distributed by email on September 14, 2004 to individuals, responsible public agencies, citizens groups representing local residents, environmental organizations, and interested industrial organizations (Attachment No. 1). Additionally, the tentative Order was placed on the Regional Board's web site on September 15, 2004, and was included in the agenda notice that was mailed on September 24, 2004. Additional information from this supplemental agenda package was also distributed via email to interested parties on October 8, 2004.

KEY ISSUES: Tentative Order No. R9-2004-0295 is based on a sixty-percent design submittal. The requirements in the Order will be protective of water quality and beneficial uses if minor changes occur while finalizing the design. However, significant design changes may require a modification of the Order.

The public comment period closes on October 12, 2004, at 5:00 p.m. This does not provide time for the Regional Board to review and respond to comments if any are received.

The Port of San Diego (Port) has entered into a Memorandum of Understanding (MOU) with Baykeeper and Surfrider Foundation regarding the proposed project. The MOU address their concerns regarding the project, but it is unknown if all environmental groups agree with the requirements in the MOU.

## Campbell Shipyard WDRs

The Port asserts that they are not subject to financial assurance requirements for closure, post-closure maintenance and monitoring, or corrective actions for reasonably foreseeable releases from the *de facto* waste management unit. Although the staff has worked with the Port to resolve this issue, it is not known if the Port will want to address the Regional Board on this topic.

The Port requested that the Regional Board Executive Officer issue the Monitoring and Reporting Program after the meeting on October 13, 2004. Tentative Order R9-2004-0295 requires the Port to develop and submit a Sampling and Analysis Plan (SAP) and Quality Assurance Project Plan (QAPP) by December 31, 2004. This approach provides the Port with some flexibility in developing an effective, project specific monitoring plan. It is not known if the Port will want to address the Regional Board on this topic.

## DISCUSSION:

Tentative Order No. R9-2004-0295 establishes waste discharge requirements (WDRs) for the cleanup and abatement of bay sediments within the Campbell Industries and Marine Construction and Design Company Holdings, Inc (Campbell Shipyard) waterside leasehold in Central San Diego Bay (Attachment Nos. 2, 9 and 10). Bay sediments contain elevated concentrations of polychlorinated biphenyls (PCBs), copper, zinc, lead, tributyltin (TBT), polynuclear aromatic hydrocarbons (PAHs) and total petroleum hydrocarbons. Cleanup levels and responsible parties were established in Cleanup and Abatement Order No. 95-21 and addenda, issued on May 24, 1995.

The Port of San Diego (Port) identified remediation alternatives in a March 25, 2002 report. The Port evaluated technical effectiveness, implementability, environmental effects/habitat impacts, and estimated costs for each alternative and selected capping in place as the preferred alternative.

On July 30, 2004, the Port submitted a report entitled "60% Basis of Design Report" that further describes the preferred project. This report included the following factors in developing the cap design: (1) isolation of existing pollutants in bay sediments; (2) potential short and long-term water quality impacts from consolidation of sediments; (3) impacts from hydrodynamic factors (e.g., action by waves, tidal currents, propeller wash from operations at the Tenth Avenue Marine Terminal and recreational boats); (4) bioturbation; (5) geotechnical aspects (e.g., bearing capacity of sediments, settlement); and (6) stability of the cap under forces generated by seismic events (e.g., liquefaction and spreading).

## Campbell Shipyard WDRs

As proposed, the project will consist of dredging 35,900 cubic yards of sediment, creation of 1.6 acre (Attachment No. 6) of shallow sub tidal eelgrass habitat (a.k.a. habitat cap), construction of an engineered cap, demolition of the existing shipways and marine rails, retrofitting an existing mole pier, repair and reconstruction of 1,230 feet of existing seawall, placement of rock revetment in front of the existing seawall, potential construction of a 90-foot wave attenuation panel to protect the shallow subtidal habitat area, and extension of a storm drain.

Dredging will be accomplished by mechanical clamshell bucket. To minimize turbidity and the transport of contaminated sediments outside of the project site, the Port will use double silt curtains, comprised of a geotextile fabric supported by a floatation boom, surrounding the dredging area.

With the exception of approximately 1,000 cy, the sediment has been profiled as California non-hazardous waste and will be disposed of at one or more landfill(s) that are properly permitted under Federal and applicable State requirements. Approximately 1,000 cy of contaminated sediment from the shipways area, impacted by a limited extend of petroleum hydrocarbon free product and PCB, is presently being assessed and may be characterized as hazardous waste, which will be disposed of at a facility permitted to receive such waste.

The engineered and habitat caps are designed to provide effective and permanent isolation of contaminated bay sediments from aquatic benthic organisms and surface waters of San Diego Bay. Following construction of the caps, sediment concentrations of contaminants will be below those specified in Cleanup and Abatement Order No. 95-21. The caps are designed to extend beyond the area of contaminated sediment identified in Cleanup and Abatement Order No. 95-21 to provide a buffer and to ensure that contaminated sediment is adequately contained.

The tentative Order includes a finding that the Port has provided satisfactory financial assurances in the amounts of \$15,778,000 for construction of a cap (closure) to isolate sediments containing residual shipyard wastes; \$561,000 for post-closure maintenance; and \$500,000 for implementation of cleanup and abatement, if necessary, for reasonably foreseeable releases of waste constituents from the *de facto* waste management unit. The tentative Order also requires the Port provide the Regional Board with a Sampling and Analysis Plan (SAP) and Quality Assurance Project Plan (QAPP) to develop the details of an effective monitoring program to confirm that the caps are functioning as designed and that

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contaminants are fully contained within the caps during the post-closure period. In the event monitoring identifies structural problems (e.g., erosion of the cap) or sediment concentrations of contaminants above “action levels”, the Port shall conduct additional investigations to identify the cause of the problem and implement appropriate corrective actions.

The Port has worked with environmental groups to address their concerns regarding the proposed project and has entered into a Memorandum of Understanding (MOU) with San Diego Baykeeper and Surfrider Foundation, San Diego Chapter (Attachment No. 4). The Regional Board has received comments from the Port on the tentative Order and the staff has prepared responses to those comments (Attachment No. 11). The tentative Order has been revised to better clarify the requirements and the factual basis for the requirements in the Order. Attachment Nos. 7 and 8 include underline/strikeout versions of the tentative Order (i.e., WDRs and Monitoring and Reporting Program) so that the Regional Board can identify changes in the tentative Order. Final versions of the tentative Order (i.e., WDRs and Monitoring and Reporting Program) are included in Attachment Nos. 9 and 10. Because the requirements of the tentative Order did not substantially change, additional public notice is neither necessary nor required. Attachment Nos. 6 through 12 are included with this Supplemental EOSR.

## LEGAL CONCERNS:

California Code of Regulations (CCR), Title 27 contains an exemption for cleanup/remediation by public agencies: “Actions taken by or at the direction of public agencies to cleanup and abate conditions of pollution or nuisance resulting from unintentional or unauthorized releases of waste or pollutants to the environment; provided that wastes, pollutants, or contaminated materials removed from the immediate place of release shall be discharged according to SWRCB-promulgated sections of Article 2, Subchapter 2, Chapter 3, Subdivision 1 of this division (§ 20200 et seq.); and further provided the remedial actions intended to contain wastes at the place of release shall implement the applicable SWRCB-promulgated provisions of this chapter to the extent feasible.”

The applicable regulations allow the Regional Board to exempt proposed actions, to be conducted by the San Diego Unified Port District, from some of the prescriptive requirements of CCR Title 27. The requirements of tentative Order R9-2004-0295 were developed to ensure that the discharger implements the applicable provisions of CCR Title 27 to the extent feasible.

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SUPPORTING  
DOCUMENTS:

1. Location Map
2. Site Map
3. Tentative Order No. R9-2004-0295
4. Distribution List
5. Memorandum of Understanding dated August 27, 2004
6. Revised Scope of Work for Habitat Cap dated October 1, 2004
7. Tentative Order no. R9-2004-0295: WDR Underline / Strikeout Version with Changes
8. Tentative Order no. R9-2004-0295: Monitoring and Reporting Program Underline Strikeout Version with Changes
9. Tentative Order no. R9-2004-0295: WDR, Final Version
10. Tentative Order no. R9-2004-0295: Monitoring and Reporting Program, Final Version
11. Tentative Order no. R9-2004-0295: Response to Public Comments
12. Tentative Order no. R9-2004-0295: Staff Report

RECOMMENDATION(S): Regional Board staff recommends adoption of tentative Order No. R9-2004-0295.